

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE UNION LIGHT, HEAT AND
POWER COMPANY

ALLEGED FAILURE TO COMPLY WITH
COMMISSION REGULATIONS 807 KAR
5:006, SECTION 26(1)(a) and 807 KAR
5:041, SECTION 3

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) CASE NO. 96-606

O R D E R

By Order dated December 26, 1996, the Commission directed The Union Light, Heat and Power Company ("ULH&P") to appear at a hearing on February 14, 1997 to show cause why it should not be subject to the penalties provided for under KRS 278.990 for the probable violation of Commission regulation 807 KAR 5:006, Section 26(1)(a), which requires a utility to notify the Commission within two hours following discovery of any utility-related accident which results in death or injury requiring medical treatment, and 807 KAR 5:041, Section 3(1), which requires utility facilities to be maintained in accordance with the National Electric Safety Code, which specifies minimum vertical clearances for electrical conductors. The probable violation arose from a January 14, 1996 accident in Fort Mitchell, Kentucky, in which an individual received fatal injuries as a result of contacting a 7200 volt distribution line while using an 11-12 foot metal pole to clean ice from gutters.

At ULH&P's request, the hearing was held in abeyance and an informal conference was convened to provide an opportunity to discuss the operative facts surrounding the accident. ULH&P appeared at the conference and the discussion with Commission Staff

resulted in the filing of a Stipulation of Facts and Agreement ("Stipulation") on July 1, 1997. The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth the relevant facts and provides that ULH&P 1) will, by August 1, 1997, de-energize the 7200 volt distribution line involved in this accident and provide a new service drop from another distribution line; and 2) agrees to pay a civil penalty in the amount of \$1,000 in full satisfaction of the probable violation.

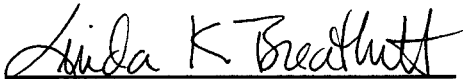
In determining whether the results of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the settlement and ULH&P's willingness to cooperate to achieve a speedy resolution of this proceeding. Based on the evidence of record, and being otherwise sufficiently advised, the Commission hereby finds that the Stipulation is in accordance with the law and does not violate any regulatory principle. The Stipulation is the product of arms-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.
2. ULH&P shall notify the Commission in writing within five days after the 7200 volt distribution line has been de-energized.
3. ULH&P shall pay \$1,000 as a civil penalty within 30 days of the date of this Order by certified check or money order made payable to the Kentucky State Treasurer and mailed or delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 4th day of August, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX A

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 96-606 DATED AUGUST 4, 1997

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STIPULATION OF FACTS AND AGREEMENT

By Order dated December 26, 1996, the Commission initiated this proceeding to determine whether The Union Light, Heat and Power Company ("ULH&P") should be subject to penalties prescribed in KRS 278.990 for the probable violation of 807 KAR 5:006, Section 26, and 807 KAR 5:041, Section 3(1). The Order arose out of an accident on January 14, 1996 in Fort Mitchell, Kentucky, in which an individual was electrocuted when a metal pole he was using to clean ice from the gutters of his home came in contact with a 7200 volt distribution line. Pursuant to ULH&P's request, an informal conference with the Commission Staff ("Staff") was held at the Commission's offices on February 14, 1997.

ULH&P and the Staff submit the following agreement for the Commission's consideration in rendering its decision in this proceeding:

1. ULH&P and the Staff have relied on the Staff's Utility Accident Investigation Report and the Staff Engineering Report, appended to the Commission's Order dated December 26, 1996, and the materials provided by ULH&P in response to discovery and discussions at the informal conference in this proceeding in reaching this Agreement.

2. ULH&P agrees that by no later than August 1, 1997, the 7200 volt distribution line involved in this accident will be removed and replaced with an insulated guy wire to maintain the structural integrity of the poles. The existing transformer will then be served from another circuit and no changes will need to be made to the service connections to existing customers.

3. ULH&P agrees to pay the amount of \$1,000 (One Thousand Dollars) in full settlement of this proceeding. Neither this payment nor any other provision of this Stipulation of Facts and Agreement shall constitute an admission by ULH&P that it has violated any section of the Commission's regulations, nor shall it be used in any civil proceeding relating to this incident.

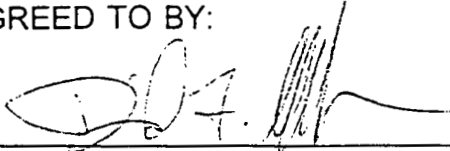
4. ULH&P and the Staff agree that if this Stipulation of Facts and Agreement is not adopted in its entirety by the Commission, ULH&P and the Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all matters involved herein. In such event, ULH&P and the Staff agree that the contents of this Stipulation of Facts and Agreement shall not be deemed binding upon the parties hereto, and cannot be used as an admission by either party.

5. The provisions contained in this Stipulation of Facts and Agreement are intended to be a subsequent remedial measure as defined in Kentucky Rules of Evidence ("KRE") 407 and a compromise as defined in KRE 408.

6. ULH&P and the Staff agree that the foregoing Stipulation of Facts and Agreement is reasonable, is in the public interest, and should be adopted in its entirety

by the Commission, and if so adopted, no petition for rehearing or judicial appeal will be filed.

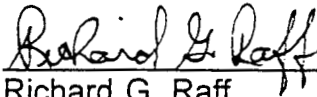
AGREED TO BY:



David T. Musselman
Counsel for The Union Light, Heat
and Power Company

6/26/97

Date



Richard G. Raff
Counsel for Commission Staff

June 30, 1997

Date